

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW HAMPSHIRE

Kyle Fellers, et al

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Plaintiffs

)

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v.

)

Case No. 1:24-cv-311-SM-AJ

)

Marcy Kelley, et al.

)

)

Defendants

)

ANSWER OF STEVE ROSSETTI TO PLAINTIFFS' FIRST AMENDED COMPLAINT

NOW COMES Steve Rossetti, by and through undersigned counsel, and submits the following Answer to Plaintiffs' First Amended Complaint.

1. Admitted
2. Admitted
3. Admitted.
4. Admitted.
5. Admitted.
6. Admitted.
7. Admitted.
8. Admitted that defendant Rossetti is a soccer referee registered with the NHIAA.
9. Admitted.
10. Admitted.
11. Admitted.
- 12 through 17. These paragraphs contain allegations against the Bow School District and do not

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require an Answer from defendant Rossetti. Defendant Rossetti is not an employee, agent or representative of the Bow School District.

18. Defendant Rossetti was not aware of the quoted policy as of September 17, 2024, but has reviewed it and does not dispute that the plaintiffs have quoted it accurately.

19. Defendant Rossetti lacks sufficient information to form a belief about the truth of these allegations.

20. Defendant Rossetti lacks sufficient information to form a belief about the truth of the first sentence in paragraph 20. The second sentence is admitted.

21 through 32. Defendant Rossetti lacks sufficient information to form a belief about the truth of these allegations.

33. Admitted.

34 through 37. Defendant Rossetti lacks sufficient information to form a belief about the truth of these allegations.

38 through 43. Defendant Rossetti has no firsthand knowledge of the facts alleged in these paragraphs. He has, since filing his original Answer, seen the body cam video of Lieutenant Lamy and admits the general sequence of events described in these paragraphs. He has insufficient information to form a belief as to everything said between the people described and further states that the audio portion of the body cam speaks for itself.

44. Defendant Rossetti lacks sufficient information to form a belief about the truth of the first sentence in paragraph 44. The second sentence is admitted, based on defendant's review of the body cam video. Defendant Rossetti lacks sufficient information to form a belief about the truth of the third sentence of paragraph 44.

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45. Admitted based on defendant's review of the body cam video.

46. Defendant Rossetti lacks sufficient information to form a belief about the truth of these allegations.

47. Defendant Rossetti admits that he stopped play. Denied that he was the head referee. The second and third sentences are admitted. Denied that defendant Rossetti stated the game would be forfeited or that Bow High School would be ineligible for the playoffs. By way of further answer, Rossetti states that he does not know the names of the plaintiffs and cannot match their names to the people he interacted with that day. Rossetti admits making the statements alleged in the last two sentences of the paragraph.

48. Defendant Rossetti has no firsthand knowledge of the allegations set forth in paragraph 48, but admits that they are an accurate description of what the body cam video shows.

49. Admitted.

50. Admitted.

51. Defendant Rossetti admits the general nature of the allegations in the first sentence based on the body cam video and audio. He lacks sufficient information to form a belief as to the truth of the second sentence.

52 through 58. Defendant Rossetti lacks sufficient information to form a belief about the truth of these allegations.

59. Defendant Rossetti lacks sufficient information to form a belief about the truth of these allegations.

60. Defendant Rossetti lacks sufficient information to form a belief about the truth of these allegations.

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61. Defendant Rossetti admits hearing statements consistent with the first sentence as people were heading to the parking lot. Defendant Rossetti denies that he had threatened to cancel the game and make Bow forfeit. Admitted that he did state at one point that the game might be called if the disturbance did not end. Admitted that he called the male plaintiff he encountered in the parking lot a “f***ing a**hole” and stating that, “In 20 years your kids are going to hate you.” By way of further answer, he made that statement after coming upon Mr. Fellers exchanging words with co-referee Brian Murphy. Mr. Rossetti told Mr. Murphy not to waste his time and Mr. Fellers reiterated his support for “females competing only against females.” Mr. Rossetti told Mr. Fellers “This is not the time or place” and then made the statements admitted to above. Admitted that nobody prevented him from talking with Mr. Fellers.

62 and 63. Defendant Rossetti admits that these paragraphs are reasonably consistent with what is shown in the body cam video.

64 through 79. Defendant Rossetti lacks sufficient information to form a belief about the truth of these allegations.

80 through 83. Defendant Rossetti is aware of the declarations and states that they speak for themselves.

84 through 108. Defendant Rossetti lacks sufficient information to form a belief as to the truth of these allegations.

COUNT I

109. Defendant Rossetti incorporates by reference his responses to paragraphs 1 through 108.

110. Paragraph 110 sets forth legal conclusions and not allegations of fact.

111. Paragraph 111 sets forth legal conclusions and not allegations of fact.

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112. Paragraph 112 sets forth legal conclusions and not allegations of fact.

113. Defendant Rossetti lacks sufficient information to form a belief as to the truth of these allegations.

114. Paragraph 114 sets forth legal conclusions and not allegations of fact.

115. Paragraph 115 sets forth legal conclusions and not allegations of fact.

116. Paragraph 116 sets forth legal conclusions and not allegations of fact.

117. Defendant Rossetti lacks sufficient information to form a belief as to the truth of these allegations.

118. Defendant Rossetti lacks sufficient information to form a belief as to the truth of these allegations.

BY WAY OF FURTHER ANSWER, defendant Rossetti states that he is not an agent, employee or representative of the Bow School District. He is an independent contractor paid to referee athletic events. He is not a state actor and his actions on September 17th, 2024 were not undertaken under color of law. He has no role in enforcing the policies and procedures of the Bow School District complained of in this action.

COUNT II

119. Defendant Rossetti incorporates by reference his responses to paragraphs 1 through 108.

120. Paragraph 120 sets forth legal conclusions and not allegations of fact.

121. Paragraph 121 sets forth legal conclusions and not allegations of fact.

122. Paragraph 122 sets forth legal conclusions and not allegations of fact.

123. Denied to the extent plaintiffs include defendant Rossetti in the plural “Defendants.”

BY WAY OF FURTHER ANSWER, defendant Rossetti states that he is not an agent,

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employee or representative of the Bow School District. He is an independent contractor paid to referee athletic events. He is not a state actor and his actions on September 17th, 2024 were not undertaken under color of law. He has no role in enforcing the policies and procedures of the Bow School District complained of in this action.

COUNT III

124. Defendant Rossetti incorporates by reference his responses to paragraphs 1 through 108.

125. Paragraph 125 sets forth legal conclusions and not allegations of fact.

126. Defendant Rossetti has insufficient information to form a belief as to the actions of the co-defendants. He denies participating in a conspiracy or threatening to make Bow forfeit the game.

127. Defendant Rossetti admits that Mr. Desilets told him something to the effect of “The first guy left but his father won’t take his off.” Admitted that defendant Rossetti stated that the game would be stopped if the disturbance did not end. The remaining allegations are denied.

128. Denied.

129. The first sentence of paragraph 129 is admitted. The second sentence is denied.

130. Defendant Rossetti lacks sufficient information to form a belief as to the truth of these allegations.

131. Denied to the extent plaintiffs include defendant Rossetti in the plural “Defendants.”

BY WAY OF FURTHER ANSWER, defendant Rossetti states that he is not an agent, employee or representative of the Bow School District. He is an independent contractor paid to referee athletic events. He is not a state actor and his actions on September 17th, 2024 were not undertaken under color of law. He has no role in enforcing the policies and procedures of the Bow School District complained of in this action.

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COUNT IV

132. Defendant Rossetti incorporates by reference his responses to paragraphs 1 through 108.

133. Paragraph 125 sets forth legal conclusions and not allegations of fact.

134. Denied to the extent plaintiffs include defendant Rossetti in the plural “Defendants.”

135. Denied to the extent this paragraph suggests defendant Rossetti threatened to forfeit the game.

136. Paragraph 136 contains no allegations directed against defendant Rossetti.

137. Paragraph 137 contains no allegations directed against defendant Rossetti.

138 through 141. Defendant Rossetti has insufficient information to form a belief as to the truth of these allegations.

BY WAY OF FURTHER ANSWER, defendant Rossetti states that he is not an agent, employee or representative of the Bow School District. He is an independent contractor paid to referee athletic events. He is not a state actor and his actions on September 17th, 2024 were not undertaken under color of law. He has no role in enforcing the policies and procedures of the Bow School District complained of in this action.

COUNT V

142. Defendant Rossetti incorporates by reference his responses to paragraphs 1 through 108.

143. Paragraph 143 sets forth legal conclusions and not allegations of fact.

144. Paragraph 144 sets forth legal conclusions and not allegations of fact.

145. Paragraph 145 contains no allegations directed against defendant Rossetti.

BY WAY OF FURTHER ANSWER, defendant Rossetti states that he is not an agent, employee or representative of the Bow School District. He is an independent contractor paid to

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referee athletic events. He is not a state actor and his actions on September 17th, 2024 were not undertaken under color of law. He has no role in enforcing the policies and procedures of the Bow School District complained of in this action.

DEFENSES

1. Defendant Rossetti is not a state actor.
2. If Rossetti is determined to be a state actor he is entitled to qualified immunity.
3. Plaintiffs fail to state a claim for which relief may be granted.

JURY TRIAL DEMANDED

Steve Rossetti demands a trial by jury on all claims so triable.

Respectfully submitted,

STEVE ROSSETTI

By his Attorneys:
DUCHARME RESOLUTIONS, PLLC

/s/Dennis T. Ducharme

Dated: November 4, 2024

By: _____
Dennis T. Ducharme Esq.
20 Market Street, Suite 206
Manchester, NH 03101
(603) 935-7292
NH Bar No. 683

CERTIFICATE

I certify that on November 4, 2024, the within Answer was served on all counsel of record electronically by entry in the Court's electronic filing system.

/s/ Dennis T. Ducharme

Dennis T. Ducharme Esq.